



County of Los Angeles CHIEF EXECUTIVE OFFICE

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May 19, 2014

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From: William T Fujioka
Chief Executive Officer

SACRAMENTO UPDATE

Executive Summary

This memorandum contains reports on the following:

- **Status of County-Advocacy Legislation**

- **County-supported AB 1596 (Garcia)** - related to Vote-by-Mail applications, passed the Assembly on May 15, 2014, and now proceeds to the Senate.
- **County-opposed AB 1881 (Jones-Sawyer)** - related to the Employee Relations Commission of the County and the City of Los Angeles, passed the Assembly on May 15, 2014, and now proceeds to the Senate.
- **County-supported SB 1045 (Beall)** - related to outpatient group drug counseling services passed the Senate on May 15, 2014, and now proceeds to the Assembly.

- **Status of Legislation of County Interest**

- **AB 2403 (Rendon)** - related to expanding the statutory definition of water to specifically include recycled water and reclaimed stormwater for the provision of water service and exemption from the election requirement for all property-related fees under Proposition 218 of 1996, is currently pending consideration on the Assembly Floor.

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- **AB 2419 (Garcia)** - related to agency shop fee agreements in the County and City of Los Angeles, passed the Assembly on May 15, 2014, and now proceeds to the Senate.

Status of County-Advocacy Legislation

County-supported AB 1596 (Garcia), which as introduced on February 4, 2014, would require that Vote-by-Mail applications specify that the only appropriate destination to mail back applications is the county registrar's office, passed the Assembly Floor by a vote of 78 to 0 on May 15, 2014. This measure now proceeds to the Senate.

County-opposed AB 1881 (Jones-Sawyer), which as amended on March 28, 2014, would prescribe requirements for appointments to the employee relations commissions of the County of Los Angeles and the City of Los Angeles, passed the Assembly Floor by a vote of 52 to 22 on May 15, 2014. This measure now proceeds to the Senate.

County-supported SB 1045 (Beall), which as amended on May 13, 2014, would require that an outpatient group setting in which drug free counseling services are provided consist of no less than two and no more than 14 individuals, passed the Senate Floor by a vote of 35 to 0 on May 15, 2014. This measure now proceeds to the Assembly.

Status of Legislation of County Interest

AB 2403 (Rendon), which as amended on April 10, 2014, would modify the definition of water for purposes of Article XIII C and Article XIII D of the California Constitution to specifically include recycled water and reclaimed stormwater for the provision of water service and for the purposes of exemption from the election requirement for all property-related fees under Proposition 218 of 1996.

Proposition 218 requires that local governments seek approval of property owners before levying a new or increased assessment, fee or charge on those property owners. SB 919 (Chapter 38, Statutes of 1997), the Proposition 218 Omnibus Implementation Act, prescribes specific procedures and parameters for local jurisdictions to comply with the provisions of Proposition 218 and defines various terms for these purposes.

Specifically, under Article XIID, when a public agency seeks to establish or increase a property-related fee, it must mail information regarding the proposed fee to every property owner and hold a properly-noticed public hearing on the proposal. If a majority

of affected property owners do not protest, the public agency may adopt the proposed fee if approved by a majority-vote of property owners or, at the public agency's option, a two-thirds vote of the electorate, in addition to compliance with the majority protest proceedings. However, certain kinds of fees, including fees for sewer, water, and refuse collection services, are expressly exempt from the voter-approval requirements of Proposition 218.

Under the new definition of water proposed by AB 2403, public agencies would only have to proceed through a majority protest process for approval of stormwater management fees.

The Department of Public Works (DPW) reports that the recent droughts have reduced the reliability of imported water supplies throughout the State and Southern California. As a result, water agencies are looking for ways to fill this supply gap, including capturing stormwater runoff to increase local water supplies. DPW also indicates that various regional water utility agencies, municipalities, and other special districts, including the Waterworks Districts and the Los Angeles County Flood Control District (LACFCD), continue their efforts to plan and implement sustainable water resource projects such as retrofitting parks to capture and treat stormwater. To the extent that these agencies seek to impose assessment or property-related fees to finance local water resource projects that involve capturing and treating stormwater, these agencies must abide by the provisions of Proposition 218 and its Omnibus Implementation Act.

In a recent Court of Appeals case, *Griffith v. Pajaro Valley Water Agency* (2013), the court considered stormwater in a Proposition 218 context, reviewing the procedure used to adopt an ordinance increasing charges for certain groundwater augmentation costs. The petitioners in this case argued that the Pajaro Valley Water Agency was not exempt from the voter approval requirement because it provides "groundwater management services," not "water services." However, the court held that, based on the facts of the case, services that included the capture and infiltration of stormwater to enhance groundwater used for water consumption *did* constitute "water service" within the meaning of Proposition 218 and, therefore, charges imposed on water users to pay for these activities were exempt from the property owner election requirement of Article XIII D, Section 6.

County Counsel and DPW report that, based on the *Griffith* decision, a fee posed upon property owners to pay for stormwater diversion and infiltration projects implemented for the purpose of augmenting groundwater could, at least potentially, be considered a fee for "water service" that is exempt from the election requirements of Article XIII D, although the extent to which this rationale would apply to fees for groundwater augmentation projects other than those specifically addressed in the decision is

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unclear. DPW and County Counsel also note that a proposed fee for groundwater augmentation costs would still need to comply with the other requirements of Proposition 218, including the requirement that the fee charged to each property owner not exceed the proportional cost of service attributable to each property.

The Department of Public Works indicates that AB 2403 would codify the *Griffith* ruling, so as to make clear that the exemption from the Proposition 218 election requirement can include activities relating to the storage, treatment or distribution of stormwater that is intended for the supply of water for personal, household or agricultural use. This would potentially allow agencies in the Los Angeles region, including the LACFCD, to raise revenue to increase water supply sustainability in a way that simultaneously addresses surface water quality by encouraging projects that divert and capture stormwater. However, DPW also notes that AB 2403 cannot make the exemption broader than what is permitted by Proposition 218.

This office, the Department of Public Works and County Counsel will continue to monitor and analyze this bill for potential County impact.

AB 2403 is supported by: Clean Water Action/Clean Water Fund; East Valley Water District; El Dorado Irrigation District; Heal the Bay; L.A. Conservation Corps; Los Angeles Waterkeeper; Natural Resources Defense Council; Santa Monica Bay Restoration Commission; The River Project; and Urban Semillas, among others. There is no known opposition on file at this time.

AB 2403 passed the Assembly Local Government Committee by a vote of 9 to 0 on May 7, 2014. This measure is pending consideration on the Assembly Floor.

AB 2419 (Garcia), which as amended on March 12, 2014, would authorize the inclusion of management employees in agency shop fee agreements in the County of Los Angeles and the City of Los Angeles, passed the Assembly Floor by a vote of 51 to 22 on May 15, 2014. This measure now proceeds to the Senate.

We will continue to keep you advised.

WTF:RA
MR:VE:IGEA:ma

c: All Department Heads
Legislative Strategist